

1 IN THE UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF ILLINOIS

3 EASTERN DIVISION

4

5 AMERICAN CENTER FOR)

EXCELLENCE IN SURGICAL)

ASSISTING INC.,)

Plaintiff,)

7 vs.)

No. 1:15-CV-07290

COMMUNITY COLLEGE)

8 DISTRICT 502, COLLEGE OF)

DUPAGE, DR. THOMAS)

9 CAMERON, DR. KAREN M.)

SOLT, and DR. KATHY)

10 CABAI,)

Defendants.)

11 The continued deposition of DANIEL BUMP,

12 called for examination pursuant to the Rules of

13 Civil Procedure for the United States District

14 Courts pertaining to the taking of depositions,

15 taken before Patricia L. Wangler, Certified

16 Shorthand Reporter in the State of Illinois, at

17 180 North Stetson Avenue, Chicago, Illinois, on

18 April 5, 2017, commenced at the hour of 10:12 a.m.,

19 and terminated at the hour of 12:27 p.m.

20

21 SESSION II

22

23 Reported By: Patricia L. Wangler, CSR

24 License No.: 084-002417



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1 MR. ROCHE: Let the record reflect that this is
2 the continued deposition of Dan Bump. It was
3 continued from yesterday until today.

4 Mike, at the end of yesterday's
5 deposition, I asked the court reporter Gina to
6 identify to me how much time I have left.

7 MR. DAVIS: Okay.

8 MR. ROCHE: She said 80 minutes.

9 MR. DAVIS: Okay.

10 MR. ROCHE: My thought is I probably only have
11 depending on how the testimony goes, about a
12 half hour to 45 minutes.

13 MR. DAVIS: Okay.

14 MR. ROCHE: And then we can move over into the
15 corporate 30(b)(6).

16 MR. DAVIS: Well, as we discussed yesterday you
17 have already done a lot of the 30(b)(6) in terms of
18 those questions.

19 MR. ROCHE: Well, assuming -- yes, we have
20 covered a substantial amount of the topics
21 identified. That is true. However, there are some
22 topics that at least Mr. Bump yesterday represented
23 that he does not have sufficient knowledge to
24 testify to.



So unless Mr. Bump has spent the last 12 hours or so educating himself on certain of the topics, we are going to have to, you know, probably have Keith Bump serve as a corporate rep for those topics.

MR. DAVIS: That's fine.

MR. ROCHE: And we can get to that when we start the corporate representative deposition.

MR. DAVIS: To the extent that those are corporate topics at all so --

MR. ROCHE: That were identified in the notice.

MR. DAVIS: Right.

MR. ROCHE: Yes.

DANIEL BUMP,

called as a witness herein, having been previously duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. ROCHE:

Q. We left off yesterday, Mr. Bump, with testimony from you on the Nonclosure Agreement that was sent to the College of DuPage in May of 2014. Do you recall that testimony?

A. Yes.

Q. Okay.



1 MR. ROCHE: This will be Exhibit No. 34.

2 (Whereupon, D. Bump Deposition

3 Exhibit No. 34 was marked for
4 identification.)

5 BY MR. ROCHE:

6 Q. Do you see what has been marked as No. 34
7 to your deposition, Mr. Bump?

8 A. Yes.

9 Q. It's an email dated June 26 -- well, at
10 least the top of the first -- the most recent email
11 thread on this email thread is June 26, 2014. Do
12 you see that, Mr. Bump?

13 A. Yes.

14 Q. Okay. I direct your attention to the one
15 immediately below from Kathy Cabai to Keith Bump.
16 Do you see that?

17 A. I thought that's the one you had -- were
18 alluding to.

19 Q. The initial one was from Keith forwarding
20 the email to you.

21 A. The one on top?

22 Q. Yes.

23 A. Okay.

24 Q. Do you recall receiving and reviewing this



1 email?

2 A. Yes.

3 Q. Now, below that from Keith Bump to Kathy
4 and Karen Solt, that email is dated
5 June 25th, 2014?

6 A. Yes.

7 Q. By that time had the College of DuPage
8 signed the May 5th Consortium Agreement?

9 A. No.

10 Q. Six weeks had passed. Were you personally
11 getting nervous that the College of DuPage was not
12 going to sign a Consortium Agreement?

13 A. As I testified before, I was already
14 acting under the assumption that we had an
15 agreement.

16 Q. Agreement that was consummated on
17 December 9th, 2013?

18 A. Yes. In my mind the written agreement, if
19 we ever got one, was going to be just a formality.

20 Q. Were you nervous as of June 26, 2014, that
21 the College of DuPage was not going to sign a
22 written Consortium Agreement?

23 A. No. I was -- the only time I became
24 nervous is when Kathy Cabai came to the lab and



1 started behavi ng the way she was.

2 Q. If you look at the email from Kathy to
3 Keith on Bates stamp ACE0364, in the middle of that
4 document, Kathy notes that Karen is out of town
5 until July 14th. I will forward this to Tom also.
6 Do you know what this -- do you know what Kathy was
7 referring to when she said this?

8 A. I assume the previous email.

9 Q. Kathy goes on to write I know legal here
10 can sometimes take a little while. You testified
11 yesterday that Miss Cabai told you that legal had
12 to approve the written contract?

13 A. Right.

14 Q. Okay. Is it fair to say then that you
15 were aware all along that Kathy Cabai on her own
16 did not have the authority to bind the College of
17 DuPage to any written contract?

18 A. Well, I know that everybody else I have
19 ever dealt with while they could approve a
20 contract, they had to get the imfamatur [sic] of
21 their legal department.

22 Q. I am sorry, the what?

23 MR. DAVIS: Imprimatur.

24 THE WITNESS: I probably said that wrong.



1 Sorry.

2 MR. DAVIS: You should know what that means.

3 MR. ROCHE: How do you know I am Catholic?

4 MR. DAVIS: Because your name is Roche. You
5 are from Chicago. Come on.

6 BY MR. ROCHE:

7 Q. Approval, is that --

8 A. They had to rubber stamp it. In fact, I
9 believe in one of the previous emails it was even
10 said legal has to rubber stamp this contract.

11 Q. The word -- the phrase "rubber stamp" was
12 used in a previous email?

13 A. Yes.

14 Q. Is this an email that we discussed
15 yesterday?

16 A. It's -- I saw it yesterday in one of the
17 emails. We didn't discuss it.

18 Q. If you don't mind, if you could go through
19 and look at the previous exhibits where that said
20 that.

21 MR. DAVIS: Surely you have a program that can
22 do that; can't you?

23 MR. ROCHE: I do. And I don't recall ever
24 coming across an email to the effect that Mr. Bump



1 just testified to.

2 BY MR. ROCHE:

3 Q. Mr. Bump, could it be the Keith Black memo
4 of February 21st?

5 A. I don't remember which memo it was.

6 Q. I will show you this.

7 I am sorry, if I said Keith Black, I meant
8 the Kyle Black memo.

9 Mr. Bump.

10 A. That's -- looks exactly what I saw.

11 Q. Does it state in that, which is
12 Exhibit 19, that the legal department approval
13 would be a rubber stamp process?

14 A. The curriculum committee review. It
15 mentions it a couple times. It seems like it's --
16 I don't know if it is all over. But it is
17 mentioned at least two times that a process. And I
18 don't know if it was legal process.

19 Q. Does it state the legal approval process
20 would be a rubber stamp?

21 A. It doesn't specifically say those words,
22 no.

23 Q. Did Kathy Cabai author the memo that is
24 appended as Exhibit 19 to your deposition?



1 A. Which one is 19?

2 Q. That one.

3 A. This one? Could you reask the question,
4 please.

5 (Whereupon, the record was
6 read as requested.)

7 THE WITNESS: No, it was from Kyle Black.

8 BY MR. ROCHE:

9 Q. Okay. In your past dealings with other
10 prospective consortium partners, I think you
11 mentioned that it was -- you were aware that legal
12 oftentimes had to review and approve the proposed
13 agreement?

14 A. Well, that was a discussion between me and
15 Keith. I don't know if Keith was just saying what
16 usually occurs or if he had specific conversation
17 with those people and was relating it to me.

18 Q. Keith would be the one with the most
19 knowledge as to ACE's understanding of the approval
20 process with other third parties?

21 A. No, I'm not saying that. I'm just saying
22 he expressed his opinion that he would probably
23 have to go through the legal department.

24 Q. For the College of DuPage?



1 A. No, for the other -- I thought we were
2 talking about the other --

3 Q. I'm sorry. And had there ever been any
4 instances to your knowledge where the written
5 proposal that was transmitted to a third party was
6 sent to legal and reviewed and then came back with
7 changes?

8 A. We have never gone through that process in
9 a consortium relationship before. This would be
10 the first time.

11 Q. Had you gone through the process in other
12 relationships aside from a consortium relationship?

13 A. With hospitals, for clinical affiliation
14 agreements.

15 Q. And how would that process work? What is
16 your understanding of how that process would work?

17 A. Well, it depends on the hospital we are
18 working for. Some were more emphatic that it had
19 to go through the legal department to get it
20 approved. Others, they could just sign it, and it
21 would be fine.

22 Q. For the ones that were emphatic that it
23 had to go through the legal department, were there
24 instances to the best of your recollection in which



1 the contract that came back had changes from the
2 legal department?

3 A. Rarely.

4 Q. But it has happened before?

5 A. It was usually their contract so --

6 Q. It has happened before though?

7 A. It would -- I can't remember specific
8 instances except that, yes, it sometimes does come
9 back with changes, specifically if it was our
10 contract and they were reviewing our contract.

11 The difference here being that a clinical
12 affiliation agreement can't be verbal contracts.
13 The contract had to be in writing according to
14 approval and accreditation processes.

15 Q. Was it your understanding in ACE's
16 relationship with the College of DuPage that the
17 College of DuPage had the ability to enter into a
18 verbal contract?

19 A. I never gave it any thought until it
20 actually happened, and then I didn't question that
21 at all. It felt strong to me, like there was -- it
22 was part of their process.

23 Q. Getting back to this email, was it ever
24 communicated to you, Mr. Bump, who was going to



1 sign the May 5th Consortium Agreement?

2 A. No. That was never made clear.

3 Q. Were you ever advised that someone in the
4 legal department at the College of DuPage would be
5 signing the Consortium Agreement?

6 A. No. It was made clear that was just a
7 review process.

8 (Whereupon, D. Bump Deposition
9 Exhibit No. 35 was marked for
10 identification.)

11 BY MR. ROCHE:

12 Q. I show you what has been marked as
13 Exhibit No. 35 to your deposition. This is an
14 email thread. The most recent email on this thread
15 being July 8th, 2014. I direct your attention,
16 Mr. Bump, to Miss Cabai's email to Keith at
17 9:04 a.m. on the first page of this exhibit. In
18 this email Kathy states that it will not be signed
19 prior to me coming to the lab. Do you know what it
20 is being referred to?

21 A. The clinical -- I mean the Consortium
22 Agreement.

23 Q. Were you made aware from Keith or anyone
24 else at ACE that ACE would not have a signed



1 written contract from the College of DuPage prior
2 to Kathy attending the Denver Skills Lab?

3 A. Yes.

4 Q. What was your reaction upon hearing that
5 news?

6 A. I don't really recall. It might not have
7 been great.

8 Q. What do you mean by that?

9 A. Because I would have liked everything to
10 have been not only with a verbal contract but
11 finalized since we were moving in that direction to
12 getting a final written contract in addition to the
13 verbal version.

14 Q. Were you concerned at all that the College
15 of DuPage would not actually sign the written
16 document that was submitted on May 5th, 2014?

17 A. Well, I had no indication at that time
18 that -- other than just my desire to have
19 everything in writing, I had no concern up until
20 the point where Kathy came to the lab and started
21 behaving as though -- in a much different way than
22 she had been before to raise my -- you know,
23 questions in my mind.

24 Q. As of this date nearly -- actually over



1 two months had passed since ACE submitted the
2 Non disclosure Agreement to the college for the
3 college's signature. And as of July 8, 2014, the
4 College of DuPage had not signed the Non disclosure
5 Agreement. Do you recall your state of mind as of
6 July 8, 2014, as it pertains to the fact that the
7 college had not signed a Non disclosure Agreement?

8 A. Just the same, all the formalities having
9 covered those, my main concern.

10 Q. Was it your belief at this time that the
11 college had agreed to sign the Non disclosure
12 Agreement?

13 A. No. They -- their only response was that
14 it's in the legal department for review. And Kathy
15 in one of -- I will have to look through them all
16 again, but Kathy made the response that things can
17 take a little bit of time in legal. And that was
18 her ongoing response.

19 And Kathy -- I mean you have met Kathy.
20 She at least comes across as though she has great
21 authority. And whether or not that's true as I
22 look back on it, I don't know. But at the time it
23 seemed like she was running the show.

24 Q. What do you mean by running the show? Can



1 you elaborate?

2 A. What she said goes.

3 Q. Did she ever represent directly to you
4 that she had the ability to sign the Consortium
5 Agreement on behalf of the College of DuPage?

6 A. No.

7 Q. Did Miss Cabai ever represent to you
8 throughout in 2013 and 2014 that she had the legal
9 authority or the ability to sign the Non Disclosure
10 Agreement on behalf of the College of DuPage?

11 MR. DAVIS: Asked and answered. He just said
12 no.

13 MR. ROCHE: I asked about the Consortium
14 Agreement.

15 THE WITNESS: So --

16 BY MR. ROCHE:

17 Q. This question pertains to the
18 Non Disclosure Agreement.

19 A. So the question you are asking to me is
20 very -- it's the same as if you were asking me if
21 Kathy Cabai as the CEO of the company had the
22 ability to sign. That's how I felt about her
23 abilities, the same as if she were the CEO or
24 the -- the head of her department has the ability



1 to sign contracts in representation of her
2 organization.

3 Q. I understand the analogy. What I am
4 trying to discover is whether Miss Cabai ever made
5 any representations to you that she had the ability
6 to contractually bind the College of DuPage to
7 legal obligations. Did Miss Cabai ever make any
8 such representation?

9 A. She never made representations in a verbal
10 form saying specifically I have the ability to sign
11 this document. However, her every action was
12 filled with the idea that she had any authority she
13 needed to have. That's how she portrayed herself
14 without saying it in so many words.

15 Q. However, in Exhibit -- in the exhibit that
16 I previously showed you wherein Miss Cabai states I
17 know legal here can sometimes take a while and the
18 exhibit presently before you she states I did talk
19 with Tom and Tom said that nothing would be
20 happening prior to Karen returning to the office
21 and she also explains to Keith Bump that the
22 contract, it will not be signed to me prior -- to
23 me -- it will not be signed prior to me coming to
24 the lab. Was your impression that maybe at this



1 time Miss Cabai did not have the authority as a CEO
2 of a company would have to contractually and
3 legally bind the College of DuPage?

4 A. No. The routine was to -- whether they
5 had the authority or not to sign a document, it was
6 to pass it through their legal department to make
7 sure that there wasn't anything untoward in the
8 document itself, not, not to -- for the legal
9 department to say you can go into this consortium
10 relationship or not.

11 The other thing I'd like to say looking
12 back on it, at this point looking forward I was
13 still good with how this consortium arrangement was
14 going. A little slow in the legal department, but
15 we were both functioning still as though we had an
16 agreement, and we were moving forward on that
17 basis.

18 And looking back, however, the comment --

19 MR. DAVIS: Don't --

20 MR. ROCHE: Let the witness finish. You can't
21 interrupt the witness.

22 MR. DAVIS: He is speculating now so -- go
23 ahead.

24 THE WITNESS: Looking back, it appears to me



1 that that might have been --

2 MR. DAVIS: Was there a question now? Is he
3 answering a question?

4 MR. ROCHE: What was the question?

5 MR. DAVIS: Well, first of all, it was -- I was
6 about to object to the question because it was a
7 compound question in that you were referring to
8 three different documents. But he answered the
9 question anyway so -- but if you want to repeat the
10 question. It was you are referring to three
11 different emails, did he still feel like the --
12 like Kathy Cabai had the authority to be able to
13 sign the contract.

14 BY MR. ROCHE:

15 Q. Upon --

16 MR. DAVIS: And he answered the question so --

17 BY MR. ROCHE:

18 Q. Okay, upon your -- based on your present
19 recollection -- or present analysis of the email
20 communications that we have discussed over the past
21 few days and what other due diligence you have done
22 in connection with prosecuting the action, what is
23 your opinion now as to Miss Cabai's authority to
24 contractually bind the College of DuPage?



1 MR. DAVIS: Objection. Calls for a legal
2 opinion.

3 BY MR. ROCHE:

4 Q. You can go ahead and answer.

5 MR. DAVIS: Well, if he is giving a legal
6 opinion, he is prevented from answering the
7 question. So if you are asking -- if you want to
8 rephrase the question, go ahead. But he can't --
9 he can't opine on a legal opinion. He is not a
10 lawyer.

11 MR. ROCHE: I'm not going to rephrase the
12 question. It's a proper question.

13 BY MR. ROCHE:

14 Q. Do you understand the question, Mr. Bump,
15 that was presented to you?

16 A. Could you say it again because now with
17 all this.

18 (Whereupon, the record was
19 read as requested.)

20 MR. DAVIS: And this is limited to your
21 opinion.

22 THE WITNESS: Okay.

23 MR. DAVIS: Okay.

24 THE WITNESS: I still have the opinion that she



1 had the legal ability to contractually obligate the
2 College of DuPage on the matter of this consortium.

3 What I was going to say as far as my
4 analysis is concerned that looking back on these
5 emails when Kathy Cabai, before she attended the
6 lab said -- reiterated basically how long it takes
7 things to get through the legal department.

8 It appears to me now, not then, that they
9 had already made a decision not to bind themselves
10 legally to us and yet they still appeared at the
11 lab.

12 BY MR. ROCHE:

13 Q. With respect to the exhibit in front of
14 you, were you aware as of July 8, 2014, Mr. Bump,
15 that the legal department had to approve the
16 contract that was submitted to the College of
17 DuPage on May 5th, 2014?

18 A. They had to approve the legal contract as
19 a valid legal contract, make sure the wording is
20 correct and there were no provisions in the
21 contract that were not in COD's best interests.

22 They were not in the business of saying,
23 yes, you can form a relationship with ACE or not.

24 Q. Were you thus aware that Miss Cabai at



1 this point in time could not sign the contract that
2 was submitted on May 5th, 2014, absent approval
3 from the legal department?

4 A. She could -- my impression was that the
5 legal department could say this needs to be changed
6 or that needs to be changed, the wording of this or
7 that to conform about their legal processes.

8 However, it was not in their purview to tell Kathy
9 Cabai whether she could have a contractual
10 relationship with ACE or not.

11 Q. Did you know as of July 8, 2014, that
12 Kathy Cabai could not sign the Consortium Agreement
13 dated May 5th without approval from the legal
14 department?

15 MR. DAVIS: You just asked that question. I
16 object on the grounds that it has been asked and
17 answered.

18 MR. ROCHE: The witness didn't answer the
19 question.

20 MR. DAVIS: Well, that's a different -- you can
21 say the witness didn't answer the question but --

22 MR. ROCHE: This question is different. I'm
23 asking for the witness's knowledge. I asked him
24 did you know as of July 8, 2014, that Kathy Cabai



1 could not sign the May 5th Consortium Agreement
2 absent approval from the legal department.

3 THE WITNESS: I am aware that she did want to,
4 that she was going to.

5 BY MR. ROCHE:

6 Q. Did you know that she could not absent
7 legal approval?

8 A. No.

9 Q. You did not know?

10 A. Did not know that.

11 (Whereupon, D. Bump Deposition
12 Exhibit No. 36 was marked for
13 identification.)

14 BY MR. ROCHE:

15 Q. I show you what has been marked as
16 Deposition Exhibit No. 36. This is an email dated
17 the same date we are discussing, July 8, 2014. I
18 direct your attention, Mr. Bump, to the middle
19 portion of the first page of this exhibit in which
20 Kathy Cabai tells Keith, I did talk to Tom and he
21 is not comfortable signing anything without having
22 legal approved nor with Karen out of town. Do you
23 recall being advised of Miss Cabai's statement that
24 she made to Keith?



1 A. I don't recall it specifically. However,
2 I agree that it was done.

3 Q. You were aware at this time that Kathy
4 Cabai had a boss?

5 A. Of course.

6 Q. Who was the boss?

7 A. As far as I know it was Karen, her direct
8 boss.

9 Q. Did you know if Tom was a supervisor of
10 Kathy's as well?

11 A. I never thought about him like that. I
12 thought he was maybe like a dean or something.

13 Q. And -- but you knew Kathy was a professor?

14 A. Yes.

15 Q. Let's talk about the Denver lab that Kathy
16 attended. I believe she attended the lab from
17 July 11th to the 14th. Does that --

18 A. That sounds right.

19 Q. Okay. And -- let's just go over the lab
20 again. How many people at least for this -- for
21 the Denver Skills Lab, how many people do you
22 recall being present for that lab?

23 A. It was somewhere between 9 and 12. It was
24 closer to 12 I think.



1 Q. Were you the instructor for that
2 particular lab?

3 A. Yes.

4 Q. Have you ever -- excuse me.

5 Has ACE ever had -- strike that.

6 Has ACE ever conducted a skills lab in
7 which you did not serve as the moderator of the
8 lab?

9 A. It was beyond that. Yes, there were
10 other -- one other instructor.

11 Q. And was there another instructor at the
12 Denver Skills Lab that Kathy attended?

13 A. No.

14 Q. Who from ACE was present for this lab
15 aside from yourself?

16 A. You mean who was in the same building?
17 Because all our people were in the same building,
18 but nobody else was teaching the lab.

19 Q. Who was in the room I guess?

20 A. Just me and the other students.

21 Q. Was Maggie Parrish in the lab do you
22 remember?

23 A. No.

24 Q. Never?



1 A. I can't say that for sure because she
2 sometimes comes into the lab during the end of the
3 week just to update students on what they need to
4 do after this to get -- to start their clinical
5 internship.

6 Q. How many days was the Denver Skills Lab
7 that Kathy attended?

8 A. Six.

9 Q. And correct me if I'm wrong, but I believe
10 you testified yesterday that the first two days are
11 composed of suture time training?

12 A. I don't think I did testify to that, but
13 there are two days. And there is a surgery that we
14 do in between the two days. So we did suture and
15 tying, a total abdominal hysterectomy. The rest is
16 suture and tying.

17 Q. And how long does a lab last on average
18 for each particular day?

19 A. Each day, ten hours with an hour lunch in
20 between.

21 Q. What was your impression of Kathy's skills
22 at the lab?

23 A. Her skills were pretty good.

24 Q. Compared to the other students at the lab?



1 A. Right.

2 Q. Were her skills superior, inferior, above
3 average? How would you characterize?

4 A. Superior to the other people in the lab.

5 I mean that's when the lab started. People kind of
6 caught up afterwards.

7 Q. When you are teaching the lab, how do you
8 go about evaluating the students in their
9 abilities?

10 A. It's -- they are shown a technique. I
11 come around and help them to -- to fine-tune their
12 techniques and everything. It is kind of
13 evaluation on the spot with written thereafter.

14 Q. How do you show them the technique? Do
15 you personally do a display, or is it video? How
16 does it work?

17 A. I'm trying to remember how we did it then.
18 Right now we do it with video. At some point we
19 were doing it live, live demonstrations. I
20 believe at that point we were doing video
21 demonstrations.

22 Q. And then the students are evaluated by you
23 I presume?

24 A. Uh-huh.



1 Q. In writing? There is a written document?

2 A. Yes.

3 Q. Evaluating the particular student?

4 A. Uh-huh.

5 Q. Was Kathy one of the best students you had
6 ever had before, observed or --

7 A. No, I wouldn't say that she was the best.

8 She was -- if my memory serves right, she was the
9 best in that lab -- or at least she picked up the
10 skills quicker than most would.

11 Q. You were evaluating her -- well, strike
12 that.

13 Were you evaluating her during her time at
14 the lab to see if she was competent enough to teach
15 the lab for the ACE COD consortium?

16 A. I was evaluating her on the same basis I
17 would evaluate any of the other students. In
18 addition to that, I was taking note of what
19 would -- how would we have to supplement her
20 training to be able to qualify to be an ACE
21 instructor.

22 Q. What training would need to be
23 supplemented to qualify her as an ACE instructor if
24 you recall?



1 A. From that -- from the basis of her
2 performance there she just needed a little work on
3 a few things. I need to maybe spend a week or so
4 with her going over the details of everything,
5 not -- just that she would know everything in
6 general. She would know the details of the
7 specific techniques that we are utilizing and our
8 specific teaching methods for that technique, what
9 can go wrong with different students in my
10 experience over the years and how do you deal with
11 that kind of thing.

12 And then spend one or two times evaluating
13 her actual performance as a teacher in a teacher
14 setting.

15 Q. Was it ever communicated to the best of
16 your recollection, Mr. Bump, that Miss -- was it
17 ever communicated to the best of your recollection
18 to Miss Cabai that she would need an additional
19 week with you to perfect the training?

20 A. Well, at the lab itself I made the comment
21 that, wow, I didn't expect, you know, this level of
22 performance from you from the very beginning. So
23 what I had planned to teach you how to be an ACE
24 instructor, I think we can near cut that in half



1 is basically the gist of my communication with
2 her.

3 Q. At this time in 2014 how many instructors
4 were employed at ACE aside from yourself?

5 A. Just me.

6 Q. Had you ever trained an instructor who
7 became an ACE instructor prior to Miss Cabai's
8 potential affiliation with ACE?

9 A. At this point in ACE I had not. I had
10 trained instructors in other organizations like
11 NIFA that I was telling you about and the
12 organization that I was associated with before,
13 that Colorado Surgical Assisting.

14 Q. After Miss Cabai, the relationship with
15 Miss Cabai ended, have you or anyone at ACE trained
16 another instructor to become an ACE instructor?

17 A. I have.

18 Q. And how many was that?

19 A. How many instructors?

20 Q. Yes.

21 A. Just one.

22 Q. What's his or her name?

23 A. His name is James Bell. He is not with us
24 anymore not because he wasn't a good instructor.



1 He was an excellent instructor. It was just
2 because we were having financial issues that we
3 needed to cut back on staff.

4 Q. Okay. Bell, B-E-L-L, is his name?

5 A. B-E-L-L.

6 Q. During this lab or after this lab --

7 A. It was after.

8 Q. Okay.

9 A. I am sorry, I assumed your question.

10 Q. During this lab did Miss Cabai express any
11 concerns that she had about the Denver Skills Lab?

12 A. She expressed a lot of concerns. This is
13 when I started thinking, wow, she is not really on
14 board the way I thought she was.

15 Q. What were the concerns that Miss Cabai
16 expressed?

17 A. The ones that I remember didn't have
18 anything to do with the concerns you were
19 expressing the other day, didn't have anything to
20 do with the concerns you expressed the other day
21 with the kind of lab materials that are utilized by
22 College of DuPage compared with ACE.

23 They mostly had concerns to do -- the big
24 one that she expressed was she was sitting right



1 next to a nurse practitioner who was -- when she
2 graduated she was going to be working with an
3 orthopedic surgeon, and we don't have very much
4 orthopedics in the class, and that student knew
5 that before they signed up.

6 But Kathy was kind of ginning up her
7 irritation with that fact over that time.

8 Q. Did Miss Cabai express any other concerns
9 that you can recollect?

10 A. No, that's the one that stands out in my
11 mind. But it seems like she was at least taking
12 that one concern and kind of spreading discontent
13 among the lab students.

14 Q. How so?

15 A. I mean they talked to each other all the
16 time in breaks and after the lab is over. And
17 we -- I just became aware that there was grumbling.

18 Q. Do you recall any personal conversations
19 that you had with Miss Cabai about her concerns of
20 the Denver Skills Lab?

21 A. While she was at the lab?

22 Q. Yes.

23 A. Just general discontent with that one
24 student in particular, but I think I was left with



1 the impression that she didn't appreciate that it
2 wasn't as high tech as she thought it would be.

3 Q. Do you recall a conversation you had with
4 Miss Cabai in the parking lot after one of the
5 labs?

6 A. It's -- I believe that I'm expressing what
7 was the conversation out in the parking lot as we
8 speak.

9 Q. Got you.

10 Were you concerned after hearing
11 Miss Cabai's concerns that the College of DuPage
12 may not go ahead with the proposed consortium with
13 ACE?

14 A. Yes, that's when I became concerned with
15 that whole thing.

16 Q. Did you ever communicate to Miss Cabai
17 that a contract was already in place?

18 A. I don't recall any such conversation.

19 Q. During the time that Miss Cabai was in
20 Denver for the skills lab, did you ever communicate
21 to Miss Cabai that the knowledge and techniques
22 that she would learn at the lab was confidential
23 information to ACE?

24 A. I don't recall such a conversation.



1 Q. Do you recall any conversations to the
2 effect that the information and techniques that
3 Miss Cabai would learn at this Denver Skills Lab
4 was ACE's trade secret information?

5 A. Only through the document that we had
6 introduced to them and once again became part of
7 our verbal agreement.

8 Q. The Non disclosure --

9 A. Non disclosure Agreement, yes.

10 Q. How did the Non disclosure Agreement become
11 part of the verbal agreement?

12 A. Well, the verbal agreement as it first
13 started was amended a couple of times as you
14 realize. It was amended based upon what Kathy was
15 or wasn't going to do for the lab. It was amended
16 how much College of DuPage was going to pay us.
17 And now it was amended to include a Non disclosure
18 Agreement.

19 MR. ROCHE: Could you read that answer back for
20 me, please.

21 (Whereupon, the record was
22 read as requested.)

23 BY MR. ROCHE:

24 Q. Let's talk about this, the initial verbal



1 agreement occurred on or about December 9, 2013 --

2 A. Correct.

3 Q. -- is that right?

4 Who on behalf of the College of DuPage
5 verbally agreed on or about December 9th, 2013?

6 A. I believe, if I remember the email
7 correctly, it was Kathy.

8 Q. Are you referring to the Karen Solt email,
9 we are good to go -- or we are ready to move
10 forward on our part?

11 A. The December 9th email?

12 Q. Yes. I can show you the exhibit.

13 A. Yes, I think I need to know whether it was
14 Karen or Kathy. I believe it was Kathy but --

15 Q. Exhibit 14.

16 A. Yeah, it appears this was Karen, not
17 Kathy, which is Kathy's boss. At least that was my
18 opinion that was her boss.

19 Q. What was the verbal agreement that ACE
20 offered the College of DuPage --

21 A. It was a verbal agreement --

22 Q. -- on or about --

23 A. -- encapsulated in the written agreement
24 that we presented at that time, the first written



1 agreement.

2 Q. The first Consortium Agreement?

3 A. Uh- huh.

4 Q. That was ACE's offer? Is that your --

5 A. And --

6 Q. -- testimony?

7 A. -- it was the basis on which we all moved
8 forward.

9 Q. With respect to the amended verbal
10 agreement relating to Kathy Cabai and whether or
11 not she would teach the lab, who on behalf of the
12 College of DuPage verbally accepted ACE's offer?

13 A. That Kathy would teach the lab instead of
14 us?

15 Q. Yes.

16 A. That might have been Karen too.

17 Q. Did Karen accept ACE's amended offer in
18 writing or verbally?

19 A. Verbally.

20 Q. And did she directly accept it to you or
21 to anyone else at ACE?

22 A. Well, the way I recall it is that she
23 offered Kathy to be the instructor, and we accepted
24 it.



1 Q. Who on behalf of ACE accepted the offer
2 that Kathy would teach the lab?

3 A. Me.

4 Q. You?

5 A. Uh- huh.

6 Q. And was that discussion --

7 A. Well, I had the final decision on it
8 anyway.

9 Q. Was that discussion in which you accepted
10 the offer, that Kathy would teach the lab, verbal
11 or over the phone -- or in writing?

12 A. Verbal.

13 Q. And who did you communicate that
14 acceptance that Kathy would teach the lab to?

15 A. I communicated it to Keith and he
16 forwarded it to whoever.

17 Q. What do you mean by Keith forwarded? Did
18 Keith forward an email or --

19 A. I believe he talked to them on the phone.

20 Q. Do you know who Keith spoke with?

21 A. I can only say either Kathy or Karen.

22 Q. And do you know when this communication
23 occurred?

24 A. Not specifically. We have a whole train



1 of emails where that whole subject I was at least
2 at first a little upset with until I calmed down
3 and thought it through.

4 Q. With respect to the -- this amendment to
5 the verbal agreement relating to payments, is that
6 right?

7 A. Uh- huh.

8 Q. Can you describe your understanding of
9 this verbal amendment relating to the payments, who
10 offered to make this amendment, who accepted,
11 et cetera?

12 A. Well, Keith at first, when they were
13 talking about that -- and I believe they first
14 asked, well, what can we -- how can you discount
15 the amount that you are going to take based on the
16 fact that Kathy will be teaching the labs.

17 And so Keith had a discussion with me.

18 And I offered a certain price. And as far as I can
19 remember it was actually he that tried to talk me
20 down from that price until we -- so he went to a
21 low 4,000, and then he wanted me to go even further
22 than that based upon some other logistics he was
23 looking at. And we eventually ended up with that
24 mid 3,000 figure.



1 Q. When did ACE offer the low \$3,000 figure
2 that you just mentioned?

3 A. The date should be on that last contract,
4 consortium contract that you gave me.

5 Q. The May 5th, 2014?

6 A. Uh-huh. Well, if that was the date.

7 Q. Well, okay, the most recent Consortium
8 Agreement --

9 A. Yes.

10 Q. -- that has been produced in this case?

11 A. Yes.

12 Q. Who communicated that offer, the low 3,000
13 for the payment on behalf of ACE?

14 A. That was a recommendation that Keith made
15 I agreed to somewhat reluctantly and he forwarded
16 that agreement to either Kathy or Karen.

17 Q. Who on behalf of the College of DuPage
18 accepted that offer?

19 A. Either Kathy or Karen.

20 Q. How did they communicate the acceptance of
21 the offer to ACE?

22 A. Back to Keith. And then he referred that
23 to me.

24 Q. And was that acceptance to Keith



1 communicated verbally or in writing?

2 A. Verbally.

3 Q. Aside from the May 5th, 2014, Consortium
4 Agreement, the most recent Consortium Agreement
5 that's been produced in this case, are you aware of
6 any other writing in which the College of DuPage or
7 anyone acting on behalf of the College of DuPage
8 communicates acceptance of the lower payment for
9 the ACE COD consortium?

10 A. No. But from there on we both were moving
11 ahead full steam towards the finalization of the
12 terms of the contract.

13 Q. So the terms of the contract had not been
14 finalized at this point in time; is that your
15 testimony?

16 A. No. I said the terms were finalized, but
17 we were moving forward to the completion of the
18 terms of the contract that had been finalized.

19 Q. What do you mean by moving forward towards
20 the completion? What did that entail?

21 A. On our side we were moving forward by
22 having Kathy attend the six-day lab. And as far as
23 I know they were moving towards getting things
24 moving through the legal department and whatever



1 else they were doing on their side. I felt like I
2 had the good sense that there was motion on their
3 side in the direction of us getting this thing
4 done.

5 Q. All right. Last question on this -- or
6 line of questioning on this, the Non disclosure
7 Agreement, you referenced -- or you testified, I
8 believe, earlier that that was another amendment to
9 the verbal agreement --

10 A. Correct.

11 Q. -- is that right? Okay.

12 Who on behalf of the College of DuPage
13 agreed to the terms of the Non disclosure
14 Agreement?

15 A. It's the same answer with the regular
16 agreement. Every agreement we sent their way,
17 their answer was it has to get the final
18 approval -- the contract terms or how it is written
19 has to be approved by the legal department, but we
20 are going to move forward.

21 Q. And that was communicated to ACE back in
22 December of 2013?

23 A. Yeah, every communication we had in a
24 relationship with the written contract went about



1 that way.

2 Q. With respect to the Non Disclosure
3 Agreement, do you recall who on behalf of the
4 college told ACE that they agreed to the terms of
5 the Non Disclosure Agreement?

6 A. No.

7 Q. Do you know if anyone on behalf of the
8 College of DuPage communicated to ACE that they
9 would agree to the terms of the Non Disclosure
10 Agreement?

11 A. I don't recall specifically about that.

12 (Whereupon, D. Bump Deposition
13 Exhibit No. 37 was marked for
14 identification.)

15 BY MR. ROCHE:

16 Q. Showing you what's been marked as
17 Exhibit No. 37 to your deposition, Mr. Bump, these
18 are simply a series of email communications about
19 trying to arrange a meeting I believe via
20 telephone. My question to you simply is do you
21 recall participating in any sort of telephonic
22 conference or video or in person, any meeting
23 whatsoever with representatives of the College of
24 DuPage between the time period of when the Denver



1 Skills Lab that Miss Cabai attended ended, so
2 July 19th or so, and August 11th, 2014?

3 A. So this meeting would have taken place
4 after the lab, right?

5 Q. Yes. Well, my question is -- my question
6 is do you recall participating in a meeting with
7 representatives of the College of DuPage between
8 July 20th and August 11th of 2014?

9 A. I recall a meeting where they said they
10 wanted to terminate our relationship.

11 Q. All right. Do you recall any other
12 meetings aside from the initial SKYPE conference
13 that we discussed yesterday?

14 A. No.

15 (Whereupon, D. Bump Deposition
16 Exhibit No. 38 was marked for
17 identification.)

18 BY MR. ROCHE:

19 Q. Showing you what has been marked as
20 Exhibit No. 38 to your deposition, Mr. Bump,
21 another email thread between Keith Bump, Kathy
22 Cabai, and yourself. I direct your attention to
23 the bottom of the first page of this, defendant's
24 production, 002762, the second main paragraph,



1 Mr. Keith Bump writes to Kathy Cabai, On our side
2 we are targeting to get started on the Blackboard
3 integration this week but really need to have a
4 fully executed contract in place before investing
5 in that project.

6 What is your recollection of ACE's
7 attempts up until this time -- strike that.

8 Had ACE to the best of your recollection
9 as of August 11th, 2014, advanced any investment,
10 financial pecuniary investment for the Blackboard
11 learning management system?

12 A. No.

13 Q. ACE had paid no money to Blackboard as of
14 August 11th?

15 MR. DAVIS: Asked and answered.

16 MR. ROCHE: 2014.

17 MR. DAVIS: You just asked that question. You
18 asked him if there was any financial pecuniary, and
19 now you asked if he invested any money. It's the
20 same question so --

21 BY MR. ROCHE:

22 Q. You can answer.

23 A. That's correct, we haven't invested any.



1 (Whereupon, D. Bump Deposition
2 Exhibit No. 39 was marked for
3 identification.)

4 BY MR. ROCHE:

5 Q. Exhibit 39, another email thread --
6 actually I will combine it with Exhibit 30, but I
7 just want to direct your attention to the bottom of
8 the first page of this exhibit. It's an email from
9 Karen Solt to you and your brother Keith. Kathy is
10 having some family health concerns right now so in
11 the event that she was not able to send you the
12 attached, I'm forwarding to you our concerns about
13 the collaboration.

14 Do you recollect Kathy Cabai having any
15 family health issues on or around this?

16 A. I believe I do, yes.

17 Q. Do you recall what those family health
18 issues were?

19 A. I -- no, I can't remember exactly what was
20 going on, but it had something to do with her
21 mother.

22 Q. And Miss Solt states that she is sending
23 you our concerns about the collaboration?

24 A. Uh-huh.



1 (Whereupon, D. Bump Deposition
2 Exhibit No. 40 was marked for
3 identification.)

4 BY MR. ROCHE:

5 Q. Exhibit 40 is a letter that was sent to
6 ACE Surgical Assisting. Do you recollect,
7 Mr. Bump -- do you recall if this letter that's
8 Exhibit 40 is the letter that Miss Solt attached to
9 the email thread as part of Exhibit 39?

10 A. I believe so, yes.

11 Q. Do you recall reviewing this letter,
12 Mr. Bump?

13 A. Yes.

14 Q. What was your reaction, if you remember,
15 upon reviewing this letter?

16 A. Well, my impression was the same as -- the
17 impression I got after the lab was that I think we
18 are in a downward spiral here. And that was
19 sudden. I can't believe that anything listed on
20 here they didn't already know before she came to
21 the lab.

22 Q. Had --

23 A. Much of this is related to, you know, the
24 Distance Learning which they had already had access



1 to long before that.

2 Q. Do you remember who on behalf of ACE
3 granted access to the College of DuPage for the
4 online Distance Learning aspect of ACE's
5 curriculum?

6 A. I didn't say anybody did.

7 Q. I thought you just said they, COD, had
8 access to the online --

9 A. They had access to our master curriculum
10 which is basically an outline of our Distance
11 Learning.

12 Q. But COD did not have access to the
13 pretests and unit tests for the online modules?

14 A. Not that I was aware of.

15 Q. COD did not have access to the ACE
16 workbook that you authored; is that right?

17 A. Not that I am aware of. I would not have
18 denied them that, and I think everybody knew that.
19 So somebody else might have granted that to them
20 without me knowing about it.

21 Q. I direct your attention to the second
22 page of this letter. About halfway through the
23 first paragraph it provides, There is concern that
24 with a program that has been functioning for



1 ten years that there are -- that there is still not
2 significant teaching learning tools in place which
3 would improve student success. A partial but not
4 all inclusive list includes handouts, step-by-step
5 procedural pages, visuals, audio tools, module
6 specific homework, et cetera.

7 In July of 2014 did ACE provide handouts
8 to its students?

9 A. At the lab there were handouts.

10 Q. Were there handouts through the online
11 distance program, the SurgiNet?

12 A. Well, just the regular handouts that would
13 pertain to their learning, their reading
14 assignments and stuff like that.

15 Q. At the lab what handouts were disseminated
16 to the students if you remember?

17 A. Just related to the lab itself. So they
18 are handouts that had to do with the specific
19 techniques that were being taught and in some cases
20 diagrams and step-by-step ways of performing those
21 techniques. There was a -- in the beginning there
22 is an expansion of the acronym good assist which
23 each letter means something that would be important
24 for the good assistant to know and perform.



1 Q. In July 2014 did ACE have step by step
2 procedural pages?

3 A. Not in detail. There was a lab manual
4 that said step by step what would be done in the
5 surgical part of the manual. So that they got a
6 video and then they could refer back to the lab
7 manual if they forgot anything from the video or
8 they could call me over.

9 Q. In July 2014 did ACE provide visual
10 demonstrations to its students aside from the
11 skills lab that you taught?

12 A. Like I said before, it was either video
13 which I believe was the case.

14 Q. The skills lab?

15 A. But sometimes before we started doing the
16 video, we had live demonstrations.

17 Q. But --

18 A. So it is either video or live
19 demonstrations.

20 Q. For the online the SurgiNet, did ACE have
21 any visual video demonstrations?

22 A. No.

23 Q. In July 2014 did ACE provide audio tools
24 to its students?



1 A. Like an audiotape or something like that?

2 Q. Yes.

3 A. No.

4 Q. July 2014 did ACE provide specific
5 homework for the online modules aside from the
6 textbook reading materials?

7 A. This was a research assignment that they
8 had.

9 Q. The next paragraph points out that in an
10 online learning environment an instructor is
11 responsible to be present on the board a minimum of
12 four times a week which needs to include one
13 weekend day.

14 In July 2014 was there an online
15 instructor available to answer questions students
16 may have about the ACE online program four times a
17 week?

18 A. We made sure that our students had access
19 to our instructor through email or through phone,
20 but we didn't have access to Blackboard at the
21 time.

22 Q. Was --

23 A. There was no form available.

24 Q. Was an instructor of the -- for the



1 SurgiNet course available to answer questions
2 students may have four times a week?

3 A. Five times a week.

4 Q. So your answer is yes?

5 A. Not on a board.

6 Q. But available?

7 A. Yes.

8 Q. Okay. How about the weekend, was an ACE
9 instructor available on a weekend, one weekend day
10 to answer questions about the online materials that
11 students may have had?

12 A. Not officially. I would often answer
13 questions a student had over the weekend, but it
14 wasn't official availability.

15 Q. And in July 2014 for the online
16 instructors, were there any online instructors
17 aside from yourself?

18 A. I was the only instructor through that
19 whole period.

20 Q. How would you answer questions, Mr. Bump,
21 if you had to be teaching a skills lab, how would
22 you answer questions about the online content that
23 students may have had?

24 A. Well, we didn't offer availability to the



1 instructor through like a chat line where there was
2 instant access. They'd email their questions. I'd
3 get to it during breaks or after the lab was over.

4 Q. Let's move on towards the bottom of this.
5 You see the statement contractual concerns and then
6 there is a few of these concerns identified by the
7 college of the contract. Is this -- is it your
8 understanding that the contractual concerns the
9 college had was with respect to the contract dated
10 May 2014 or the one that was sent in December of
11 2013?

12 A. It would have been the latest, the
13 May one. But the contracts were essentially the
14 same other than Kathy was going to be teaching and
15 the price that we were going to receive.

16 (Whereupon, D. Bump Deposition
17 Exhibit No. 41 was marked for
18 identification.)

19 BY MR. ROCHE:

20 Q. I show you what has been marked as
21 Exhibit 41. Do you recall sending this email,
22 Mr. Bump --

23 A. Yes.

24 Q. -- to Karen cc'd to Kathy and Keith on or



1 about August 13, 2014?

2 A. Yes.

3 Q. The second paragraph states, I have also
4 attached the most recent Consortium Agreement. It
5 appears that some of your concerns may have had --
6 may have come from a template agreement that we
7 sent you in order to start our negotiations.

8 What template agreement are you referring
9 to if you recall?

10 A. That would have been the very first one we
11 sent them.

12 Q. The one that was sent on or about
13 November 21, 2013?

14 A. I -- if that was the very first one.

15 Q. We can look at the exhibit --

16 A. We had discussed December the 9th. I
17 thought that's the one. So I guess we would have
18 sent one right before then, yeah.

19 Q. Do you remember -- do you recall what you
20 meant by template agreement?

21 A. It's the one we put together that would
22 show the terms of the agreement and the original
23 price that we were looking at and what would have
24 to be done by the college and by ACE.



1 Q. Was that agreement to the best of your
2 recollection, the template agreement, sent to any
3 other hospitals or --

4 A. We didn't send any.

5 Q. No?

6 A. This was the first time.

7 Q. What did you mean by to start our
8 negotiations?

9 A. Well, I would send it over there, and if
10 you needed to specifically disagree with any of
11 those -- with any of those terms, then that would
12 be your chance to do so.

13 Q. It then goes on to state, The attached --
14 your email, The attached agreement is the one that
15 was modified to take our negotiations into account
16 and sent to you later for your consideration. What
17 did you mean by that statement?

18 A. The negotiations were the -- the
19 negotiations we went through to amend the original
20 contract.

21 Q. This email -- you are referring -- I'm
22 sorry, with respect to your last question, are you
23 referring to the issues relating to who was going
24 to teach the lab and how much ACE was going to be



1 charged and the Non Disclosure Agreement?

2 A. Correct.

3 Q. Okay. Were there any others -- as you sit
4 here now, were there any other additional
5 negotiations about other issues?

6 A. Those are the ones that stand out in my
7 mind. I don't recall any other issues.

8 Q. Could there have been other issues?

9 A. Not any that would stand out to me. So
10 they would be very minor if there was any.

11 Q. Okay. Let's go through this. You will
12 note, Mr. Bump, that your response appears to be in
13 red type.

14 A. Right.

15 Q. Red font. And it appears to be almost a
16 play-by-play response to each of the items
17 identified in the College of DuPage's letter as
18 of -- July 30, 2014, letter; do you see that?

19 A. Yes.

20 Q. I direct your attention to the ACE0112,
21 your opening statement in response to the letter
22 that's in the red font. Just see the third
23 paragraph, just the first sentence, What we may
24 have neglected over the years is an ongoing



1 improvement of the process. Do you recall what you
2 meant by that statement?

3 A. Not specifically, but that's -- that's
4 what they were accusing us of. So while they may
5 have moved on to videos, audios, and YouTube videos
6 and whatever else they had in mind, we had not done
7 that.

8 Q. In the last paragraph here you state, We
9 also may have what appears to be differences of
10 opinion on processes. I want to assure you that I
11 haven't read anything in your concerns that we
12 wouldn't be willing to implement for the sake of
13 our relationship if not in the interest of further
14 improving the training we offer our mutual
15 students.

16 Do you recall at this time the concerns
17 raised by COD to require a substantial revision of
18 the online portion of the ACE's surgical assisting
19 program?

20 A. Well, they weren't looking at having us
21 revise content or anything like that. They were
22 looking at adding audios, videos, and YouTube
23 videos.

24 Q. Would you agree that COD was looking to



1 revise the delivery of the content of ACE's
2 SurgiNet program?

3 A. Yes.

4 Q. The second page, ACE0113, the first part
5 of your response that's in the red font, you state,
6 I learned a lot in a recent phone conference with
7 Kathy about some of the concerns she expressed. Do
8 you recall that phone conference, Mr. Bump, at all?

9 A. Not really phone conference. I agree this
10 is a response to a conversation I had with Kathy,
11 but I don't specifically remember that phone
12 conference.

13 Q. Do you recall if anyone else aside from
14 you and Kathy participated in that phone
15 conference?

16 A. I don't remember the phone conference.

17 Q. All right. Let's move on to the next
18 page. It's -- the bullet points at the top are
19 discussing replay of online videos. Do you see the
20 general discussion about that that you said?

21 A. The first bullet point on this page?

22 Q. Yes.

23 A. That was related, I believe, to videos,
24 what we were going to put up on our website



1 relating to the specific techniques that were
2 learned in the lab so that once the lab was over or
3 even in the evening while the students were trying
4 to practice the techniques that they had learned
5 during that day, they could observe a video.

6 Q. Has that capability been implemented at
7 ACE?

8 A. Yes.

9 Q. When was that implemented?

10 A. Well, sometime after this. Maybe a couple
11 of years.

12 Q. All right. Your last bullet point here at
13 the top of this page, you state after the videos
14 have been fully edited, my next program improvement
15 is to revise the notebook handouts. Has that
16 occurred for ACE?

17 A. Yes. I don't know what specific revisions
18 she was hoping for, but definitely have. I had
19 some ideas about revisions that were needed at the
20 time anyway.

21 Q. Okay. Let's go to the next page,
22 Contractual Concerns. This is your response to --
23 your responses to several of the concerns expressed
24 in the July 30, 2014, letter by the College of



1 DuPage. In response to the first contractual
2 concern, ACE Responsibilities Item No. 4, you state
3 it is a concern here that they'd feel if COD
4 requires an ACE employee to travel to Illinois for
5 an on-site visit, ACE should do that at their own
6 expense. I think also that COD must have an older
7 template of the agreement because the language,
8 quote, under the terms of the adjunct faculty
9 compensation, closed quote, does not appear in the
10 agreement formulated for them. I have attached the
11 most recent agreement.

12 The agreement that you attached -- well,
13 let me ask the question. If we go back to
14 Exhibit No. 32, Mr. Bump, is this the agreement
15 that was attached to your email dated
16 August 13, 2014?

17 A. Yes.

18 Q. And if you note in that exhibit under
19 ACE Responsibilities, paragraph 4, that was
20 modified from the earlier template agreement. Why
21 don't I get you, before you answer, I provide you
22 with the earlier template agreement, Exhibit 11.
23 Is there a change in paragraph 1 -- or, excuse me,
24 Roman numeral I 4 under ACE Responsibilities?



1 A. There is a change, but it doesn't seem to
2 be a change that's referred to here. Where in this
3 document are we looking at again?

4 Q. The first page -- oh, I'm sorry, yeah, I'm
5 discussing Exhibit 32.

6 A. Okay. So this is word for word verbatim
7 what it says in the older agreement, but I think I
8 was trying to -- I'm not even sure I was referring
9 back to this agreement. I'm not exactly sure
10 exactly what I had in mind, but it seems to me,
11 according to what I have written here, that I
12 was -- either read specifically or I thought I had
13 read that this would be at ACE's expense, this
14 visit would be at ACE's expense, whereas the
15 agreement that was currently on the table, the
16 written agreement that was currently on the table
17 said that would be at the college's expense.

18 Q. The Consortium Agreement identified in
19 Exhibit 32 under Roman numeral I4, the last
20 sentence in that exhibit is different from the
21 Consortium Agreement identified as Exhibit 11 to
22 your deposition; is that right?

23 A. Yes. The reason that specific change was
24 made in this newer version of the written version



1 of the written contract because this was an older
2 term and it refers to a provision in the contract
3 that was no longer there.

4 Q. Was this term in the most recent
5 consortium, which is Exhibit No. 32, changed in
6 response to the July 30, 2014, letter that -- in
7 which COD expressed concerns about this particular
8 term?

9 A. What particular term were they expressing?

10 Q. Roman numeral I4. If you look at
11 ACE1115.

12 A. It appears to me that they didn't express
13 what their concern was with that item, just they
14 said here are concerns and just wrote out the
15 statement --

16 Q. And then did you --

17 A. -- and the term.

18 Q. Did you recall if you or anyone at ACE
19 modified Exhibit 32 in response to that concern
20 that was articulated by the college in July -- on
21 July 30 -- well, in the July 30, 2014, letter?

22 A. No. It was my impression the concern had
23 already been addressed long before that with this
24 newer version of the document.



1 Q. How about Item No. 5, in connection with
2 under the term and termination provisions of the
3 contract items No. 1 and No. 4, would you agree
4 that in this letter, the July 30, 2014, letter that
5 the College of DuPage is expressing a concern about
6 the idea, or at least the term in the proposed
7 agreement, that ACE has a right to contract with
8 other colleges for the same or similar related
9 programs yet under the term and termination
10 provision the agreement between ACE and COD would
11 be in place for 24 months and COD has to wait
12 24 months upon termination of the agreement to
13 start its own program? Would you agree that that
14 was a concern that was expressed by the College of
15 DuPage?

16 A. Only in this document. They hadn't
17 expressed it at any time before that.

18 Q. In the letter that was dated
19 July 30, 2014?

20 A. Uh-huh.

21 Q. In Exhibit No. 32 the Consortium
22 Agreement --

23 A. Which one of these is 32?

24 Q. That's 32. Are those terms in that



1 exhibit changed from the initial Consortium
2 Agreement which is identified as Exhibit 11?

3 A. All these are new concerns that happened
4 after this and after -- at least I believe -- yes,
5 after they had already decided not to work with us
6 anyway which happened sometime before Kathy
7 attended the lab.

8 MR. ROCHE: I'm sorry, could you repeat that
9 back. I wasn't paying attention.

10 (Whereupon, the record was
11 read as requested.)

12 BY MR. ROCHE:

13 Q. Is it your belief that the College of
14 DuPage had decided internally not to pursue
15 consortium with ACE before Kathy attended the
16 Denver Skills Lab?

17 A. That's my belief looking back as we
18 already discussed.

19 Q. Got you. Okay.

20 Anyway, back to this, you provide in
21 Item No. 5 you say the way this is stated in the
22 most recent agreement is as follows, and you
23 indicate among other things here that ACE will
24 not -- during the duration of the agreement they



1 will not contract with other colleges of higher
2 learning within a 50-mile radius of the college.

3 A. Yes.

4 Q. Was this change to the Consortium
5 Agreement implemented in response to the concern
6 that COD expressed to ACE on or about
7 July 30, 2014, in this letter?

8 A. This to my knowledge is the latest version
9 of the Consortium Agreement which was before this.
10 This was an expression of what the new one was
11 going to look like. And soon thereafter we had a
12 conversation about not moving forward anyway.

13 Q. Is it your view that the concerns outlined
14 in the July 30, 2014, letter by the College of
15 DuPage had already been addressed in the most
16 recent Consortium Agreement that was sent on or
17 about May 5th, 2014?

18 A. This is -- this would be the changes that
19 were -- that were made immediately in our verbal
20 agreement that would later follow up in written
21 form.

22 Q. Were these concerns in the July 30, 2014,
23 letter communicated to ACE before July 30, 2014?

24 A. I believe -- I believe I remember a



1 conversation. I don't remember if it was by phone
2 or if Kathy communicated to me at the lab. I don't
3 remember. But they were concerned about at least
4 when the program first started they wanted to have
5 an exclusive area.

6 They didn't think they needed that
7 forever. But they would at least like -- like to
8 have that at the beginning because there were other
9 surgical assistant programs in the area.

10 There was one specifically in Rockville I
11 think or Rockford. I can't remember exactly where
12 it was but --

13 Q. Okay. So these concerns were -- strike
14 that.

15 Okay, last question then on this exhibit.
16 If you turn to ACE01118 under Item No. 8, Other
17 Rights and Joint Responsibilities, this COD letter
18 states -- well, COD letter provides that this
19 concerns College of DuPage if we are entering
20 into -- excuse me, this concerns College of DuPage
21 if we are entering a Consortium Agreement.

22 Do you recall reading that specific
23 sentence that was communicated to you by COD in the
24 letter?



1 A. Yes.

2 Q. Do you recall what your reaction upon
3 reading that was?

4 A. You mean other than my written reaction?

5 Q. Yes. Were you concerned that there was no
6 actual agreement in place at this time?

7 A. No. I was never, never once in doubt of
8 that. I was in doubt of whether they were going to
9 follow through on their side of the agreement. And
10 that started right at the lab.

11 Q. All right.

12 A. And thereon after.

13 Q. It appears that ACE tweaked the language
14 in the Consortium Agreement and put in, It is
15 agreed that the curriculum and associated materials
16 and simulators are proprietary in nature and are
17 the exclusive property of ACE. College shall not
18 copy or reproduce anything by ACE without ACE's
19 permission.

20 Was that change in -- made by ACE in
21 response to the concerns expressed in the
22 July 30, 2014, letter?

23 A. Is Item 8 in the contract, or is it
24 just --



1 Q. In Exhibit 32?

2 A. -- their concern?

3 Q. Well, why don't you --

4 A. Their concerns are --

5 Q. Why don't you turn to Exhibit 32.

6 A. And it is under Other Joint Rights and
7 Joint Responsibilities? Okay. Right. What's the
8 question related to that?

9 Q. Was that agreement, Exhibit 32,
10 modified -- strike that.

11 Was that provision that we are discussing
12 Item 8 in Joint Responsibilities, was that
13 provision modified in Exhibit 32 in response to the
14 concern expressed by COD in its July 30, 2014,
15 letter?

16 A. No. This was previous to that. I can't
17 remember what our concern -- I don't believe there
18 was any specific concern that we were getting from
19 the COD camp related to this. It just became an
20 obvious term of the agreement that should be in
21 there.

22 Q. Okay. Please go to the first page of this
23 exhibit. And tell me what the subject heading was
24 of the email.



1 A. Response to COD concerns?

2 Q. Okay.

3 (Whereupon, D. Bump Deposition
4 Exhibit No. 42 was marked for
5 identification.)

6 BY MR. ROCHE:

7 Q. Exhibit 42, this is an -- Exhibit 42 is an
8 email from you to Karen Solt, Kathy Cabai, and
9 Keith Bump. Simply states that Dan Bump would like
10 to recall the message response to COD concerns. Do
11 you remember trying to recall that email message
12 that you previously sent to the College of DuPage?

13 A. No. And, in fact, this could potentially
14 just be a mistake hitting the wrong button in the
15 email.

16 Q. Mistake on your part or --

17 A. In other words, I could have hit [sic]
18 the wrong button which is close to other buttons I
19 have to hit.

20 Q. After you sent the first email?

21 A. Apparently it wouldn't have gone before or
22 at the same time.

23 Q. Okay.

24 A. I don't recall having done this at all.



1 Q. Okay.

2 (Whereupon, D. Bump Deposition
3 Exhibit No. 43 was marked for
4 identification.)

5 BY MR. ROCHE:

6 Q. I show you what has been marked as
7 Exhibit 43. This is a compilation of email
8 communications that appears to be with people on
9 behalf of both the College of DuPage and ACE trying
10 to arrange for a discussion of the surgical
11 assistant program.

12 My question simply is do you recall in
13 August or September having a telephone conversation
14 with representatives of the College of DuPage?

15 A. I only recall one where they decided not
16 to work with us anymore.

17 Q. Do you recall when that conversation
18 occurred?

19 A. It seemed --

20 Q. Did it occur in August of 2014?
21 September?

22 A. Not specifically. I could stand fairly
23 firm on August and September, sometime in that
24 arena.



Q. All right. I just want to try to as best we can to get a date of when this telephone call or conversation occurred.

(Whereupon, D. Bump deposition
Exhibit No. 44 was marked for
identification.)

BY MR. ROCHE:

Q. Last exhibit, 44, this is an email dated September 8, 2014. It's from Miss Solt to yourself, Keith. And Miss Cabai and Mr. Cameron are copied on this email. Do you recall receiving this email, Mr. Bump?

A. I definitely remember either an email or a discussion along this line.

Q. The discussion, who was -- do you remember who was present -- was the discussion over the phone?

A. This sounds very much like the discussion we had as part of the discussion when they were saying they didn't want to work with us anymore.

Q. So they told you they didn't want to work with ACE over the phone at some point in time?

A. Yes.

Q. Okay. Who was present during that



1 discussion? It occurred over the phone?

2 A. Yeah, it seemed like, if I am recalling
3 this correctly, that Kathy, Karen, and Tom were
4 there.

5 Q. Was Keith on the phone if you remember?

6 A. I think so.

7 Q. Kyle, do you recall a Kyle Black?

8 A. I doubt that he would be in on that
9 conversation.

10 Q. All right. And do you remember who
11 informed you and Keith if Keith was indeed on the
12 call? Who informed ACE that the College of DuPage
13 was no longer going to partner with ACE?

14 A. Who specifically on the phone call?

15 Q. Yes.

16 A. I don't even think Kathy had much to say
17 at all, if anything, during that conversation. It
18 would have been Karen and maybe reiterated by Tom.

19 Q. Do you recall how long this telephone
20 conference lasted?

21 A. It was painful. I wouldn't let it go on
22 that long. Maybe 15 minutes.

23 Q. What was your reaction, if you remember,
24 upon learning that the College of DuPage no longer



1 wanted to proceed forward with ACE?

2 A. Well, at this point one of the big things
3 that they had for the reason why they didn't want
4 to continue is because of my lack of experience or
5 training in their kind of online training.

6 And they actually had a training program
7 which I said, okay, I will take it. And they said,
8 it will take too long, and we don't really want to
9 start from the beginning and whatever else he said.

10 Q. What was your reaction when you discovered
11 that the College of DuPage no longer wanted to
12 partner with ACE?

13 A. I don't think my reaction was all that --
14 it definitely wasn't bad over the phone. In other
15 words, I didn't show any displeasure or anger over
16 the phone and not much thereafter either because I
17 was kind of expecting it anyway.

18 Q. It did not -- did it come as a surprise to
19 you --

20 A. No.

21 Q. -- that the College of DuPage no longer
22 wanted to partner with ACE?

23 A. It is like everything that happened from
24 the lab on after was pointing in that direction



1 anyway. And I was just trying to save it somehow.

2 Q. Did you or anyone else who was on the call
3 on behalf of ACE mention anything about the
4 existence of a contract between ACE and COD?

5 A. I don't recall that.

6 Q. Do you recall any discussion between ACE
7 and the College of DuPage about the trade secrets
8 and confidential information that ACE had provided
9 to the college?

10 A. I don't recall that conversation.

11 Q. Do you recall if you or Keith asked anyone
12 at COD to return ACE's confidential information
13 that it sent to the College of DuPage?

14 A. Not during that conversation.

15 Q. Do you recall subsequent to that
16 conversation either you or Keith ever asking the
17 College of DuPage to return the program catalogue
18 and master syllabi?

19 A. No. It was pretty soon after that that we
20 contacted a lawyer. And I don't recall even after
21 that anything like that was said. I don't
22 have a specific conversation of my lawyer to you or
23 whoever was representing the college at that time.

24 Q. What about the Self-Study, do you recall



1 any attempts by ACE to demand the return of the
2 Self-Study that College of DuPage was in possession
3 of, ACE's Self-Study?

4 A. No, I haven't. And looking back, maybe I
5 just didn't see the point because they could have
6 returned one and kept a copy. So I don't know that
7 I would have thought that that would be an
8 effective approach anyway.

9 Q. What about the budgetary information that
10 ACE transmitted to the College of DuPage, did
11 anyone to your knowledge on behalf of ACE ask the
12 College of DuPage to return that -- the budgetary
13 information?

14 A. No.

15 Q. Did anyone at ACE or on behalf of ACE
16 demand the destruction of the email if any hard
17 copies existed of the budgetary information?

18 A. No.

19 Q. Did anyone on behalf of ACE demand the
20 destruction of the Self-Study that ACE provided to
21 the College of DuPage?

22 A. No.

23 Q. Did anyone on behalf of ACE demand the
24 destruction of the program catalogue that ACE sent



1 to College of DuPage?

2 A. No. How would we have verified that any
3 of that took place?

4 Q. That wasn't my question. My question
5 simply was did ACE make that demand upon COD.

6 A. No.

7 Q. Did ACE make any demand upon COD to the
8 best of your knowledge that the College of DuPage
9 destroy the curriculum that ACE provided the
10 college?

11 A. No.

12 MR. DAVIS: Anything else?

13 MR. ROCHE: No.

14 MR. DAVIS: You probably could have covered
15 those six questions in one, but, you know --

16 MR. ROCHE: I'm trying to be clean because you
17 objected on compound a little bit ago; so I was
18 trying to --

19 MR. DAVIS: So let's go off the record for a
20 second.

21 (Discussion off the record.)

22 MR. ROCHE: Counsel for plaintiff and defendant
23 are discussing Mr. Bump's upcoming corporate
24 representative deposition.



1 MR. DAVIS: And according to the discussion
2 that we had yesterday you were not sure that he
3 was. And after he began to testify and you found
4 out that he was the sole shareholder and president,
5 we then agreed that he was the 30(b)(6)
6 representative.

7 And I have now covered with you all of the
8 topics that a 30(b)(6) representative could testify
9 to. And he has testified to every single one of
10 these topics. So is it your intention to go over
11 each one page of these topics again?

12 MR. ROCHE: That's not what we agreed to. In
13 fact, about 20 minutes into the deposition
14 yesterday of Mr. Bump, which clearly and
15 unequivocally states on the record that was the
16 deposition of Mr. Bump and his individual capacity,
17 I pulled you aside and explained to you that
18 Mr. Bump, what he had just testified to, he would
19 be unable to serve as a corporate representative
20 for certain of these topics.

21 For example, I -- one of the topics for
22 discussion for the corporate representative
23 deposition is the allegation, the allegations in
24 ACE's complaint.



1 Mr. Bump testified yesterday that he did
2 not review the complaint in connection with
3 preparing for his deposition yesterday and that he
4 may have reviewed the complaint back in 2015 when
5 it was filed in August of 2015.

6 The federal rules require the corporate
7 representative -- they require the corporation to
8 adequately prepare the corporate representative to
9 testify on the topics that are identified and set
10 forth in the notice of deposition.

11 It's an obligation that ACE has. And
12 it -- unless Mr. Bump reviewed the complaint last
13 night and the exhibits to the complaint as he
14 stands right now, as he sits here right now based
15 on his prior testimony, he is not prepared to
16 testify as to the allegations in ACE's complaint.

17 MR. DAVIS: Well, did you not --

18 MR. ROCHE: What we -- what we --

19 MR. DAVIS: Did you not ask him on the record
20 if he was the sole shareholder and president of the
21 corporation?

22 MR. ROCHE: Yes.

23 MR. DAVIS: Okay. And he answered yes to those
24 questions. Is that correct?



1 MR. ROCHE: Yes.

2 MR. DAVIS: Okay. And didn't you in the hall
3 outside say, well, I guess he is the sole
4 shareholder and the president of the corporation;
5 so he must be the 30(b)(6) rep?

6 MR. ROCHE: No. I said because he is the sole
7 shareholder and owner of the corporation, his
8 statements made during his individual -- or his
9 deposition in his individual capacity bind the
10 corporation because he is a managing agent.

11 All right?

12 MR. DAVIS: Even though he is the president and
13 the sole shareholder?

14 MR. ROCHE: By virtue of his -- exactly,
15 ownership.

16 MR. DAVIS: Exactly what are you insisting on
17 in terms of additional time that you haven't
18 covered so far?

19 MR. ROCHE: When we were off the record, as I
20 explained to you, the financial performance of ACE
21 from 2011 to the present. I would like to ask
22 ACE's corporate representative a few more questions
23 other than -- about ACE's financial performance
24 other than what I asked Mr. Bump yesterday which



1 pertained almost to the enrollment figures that
2 occurred.

3 MR. DAVIS: Which is part of the financial
4 performance.

5 MR. ROCHE: Part, but not all of it. That's
6 what I am getting at.

7 MR. DAVIS: What else?

8 MR. ROCHE: Well, No. 2, the relationships ACE
9 has had with other academic institutions. By
10 virtue of Mr. Bump's testimony yesterday, he cannot
11 serve as a corporate rep to discuss that because
12 Keith Bump was the one who had the interaction with
13 the two academic institutions that apparently were
14 at issue. But I am not --

15 MR. DAVIS: Did you ask him the questions
16 yesterday?

17 MR. ROCHE: Yes. He said --

18 MR. DAVIS: Did he answer them?

19 MR. ROCHE: He said talk to Keith. Keith would
20 know.

21 MR. DAVIS: He said none. The answer was none.
22 You can go back in the record and check. He said
23 clearly none.

24 There are no other relationships that ACE



1 has had with other academic institutions.

2 MR. ROCHE: But in response to the questioning
3 about what information that was sent to these two
4 perspective academic institutions, Dan Bump said --
5 effectively testified that Keith would know, Keith
6 would have been the one that would have sent that
7 material. So I intend on asking Keith that
8 question. I'm not going to ask --

9 MR. DAVIS: Okay, what else?

10 MR. ROCHE: -- Dan that question at his
11 corporate deposition this afternoon.

12 MR. DAVIS: This afternoon? We are not
13 staying.

14 MR. ROCHE: Or --

15 MR. DAVIS: For how long it takes.

16 MR. ROCHE: After this break.

17 MR. DAVIS: Okay. ACE's attempts to maintain
18 the secrets of the trade secrets, asked and
19 answered.

20 MR. ROCHE: No. For example, Mike, first of
21 all, I am talking about probably four minutes of
22 questioning. I need to know whether there are
23 policies and procedures in place, employee
24 handbooks, that type of stuff. Those are the



1 questions I want to ask.

2 MR. DAVIS: Trade secret --

3 MR. ROCHE: And I did not ask them to Mr. Bump
4 yesterday.

5 MR. DAVIS: Okay. What else?

6 MR. ROCHE: This is another one that's
7 probably -- my view is ACE is going to have to
8 designate Keith Bump to testify to, on behalf of
9 the corporation, No. 6, ACE's compliance with the
10 defendant's discovery requests.

11 Mr. Bump -- Dan Bump testified yesterday
12 that Keith -- Keith and I think Maggie were the two
13 primary ACE employees who were in charge.

14 MR. DAVIS: Where is that on the Exhibit A,
15 30(b) (6)?

16 MR. ROCHE: No. 6.

17 MR. DAVIS: ACE's performance under the
18 contract between ACE and defendants? That's what I
19 have got as an Exhibit A to the subpoena.

20 MR. ROCHE: No. 6?

21 MR. DAVIS: No. 6 is ACE's performance under
22 the contract between ACE and defendants. It's
23 attached to your subpoena, Exhibit A, 30(b) (6).

24 MR. ROCHE: Can I see what you are looking at?



1 MR. DAVIS: Yes. Here is the notice of
2 deposition of plaintiff, Exhibit A.

3 MR. ROCHE: Scroll up. That's the one that was
4 sent last fall I believe. Yeah, October 6.

5 MR. DAVIS: Well, what's the difference between
6 that 30(b)(6)?

7 MR. ROCHE: Because the more recent one I sent
8 you -- here.

9 MR. DAVIS: You sent a second subpoena?

10 MR. ROCHE: A second notice. I don't need to
11 send a subpoena. It is a 30(b)(6) dep of a party.

12 MR. DAVIS: ACE's compliance with defendant's
13 discovery request. So Keith Bump is going to
14 answer that?

15 MR. ROCHE: Right. I believe. Well, you tell
16 me. The corporation is required to produce a
17 witness who can competently testify to the topics.

18 MR. DAVIS: The discussions ACE had with the
19 defendants in November and December, covered. The
20 discussions ACE had with defendants in 2014,
21 covered. The terms of the alleged contract between
22 ACE and defendants, covered. ACE's potential
23 merger with Your Hands, Your Extra Hands Surgical
24 Services. Okay. ACE's performance under the



1 alleged contract between ACE and defendants,
2 covered.

3 MR. ROCHE: May I -- I'd like -- I'd like to
4 respond to some of these.

5 MR. DAVIS: Well, what have you not asked about
6 ACE's --

7 MR. ROCHE: Look, look, like, Mike, Mike,
8 Mike --

9 MR. DAVIS: There is a reason.

10 MR. ROCHE: Hold on.

11 MR. DAVIS: There is a reason --

12 MR. ROCHE: Hold on.

13 MR. DAVIS: -- why you only have seven hours.

14 And the reason why is because you need to craft
15 your deposition so that you do it in seven hours,
16 not craft your deposition so that you do it in 14
17 which you are claiming that you have which you
18 don't.

19 MR. ROCHE: It's my experience that -- and we
20 have researched the case law, and I believe the
21 case law supports the view, that Mr. Bump's
22 testimony in his individual capacity I am allowed
23 under the federal rules to question him and examine
24 him and probe his recollection and insight and



1 knowledge in his individual capacity. This is a
2 corporate deposition --

3 MR. DAVIS: On areas that you have already
4 covered?

5 MR. ROCHE: -- which has been noticed up for
6 today. And the corporation is under an obligation
7 subject to the threat of sanctions for -- to make
8 sure that the deponent who is going to serve as the
9 corporate representative has adequately prepared
10 and has the knowledge or learns the knowledge
11 through preparation to testify to the topics
12 identified in the corporate notice.

13 Yesterday during Mr. Bump's deposition he
14 testified, Dan Bump's deposition, Dan Bump
15 testified that Keith Bump was on the ground, I
16 believe is what his testimony said, in terms of the
17 discussions ACE had with the defendants in
18 November, December 2013 and also 2014.

19 Accordingly, it's my view that for today's
20 deposition ACE is required to produce Dan Bump --
21 or excuse me, Keith Bump for -- to testify on those
22 subjects.

23 Now, we also know that we discovered last
24 week that Keith has a medical ailment that is



1 preventing him from testifying today. Keith was
2 initially supposed to be the corporate rep, and due
3 to this medical ailment he was unable to testify.
4 And the parties have jointly moved to extend his
5 deposition, extend the deadline to take his
6 deposition. And I am entirely fine with that.

7 MR. DAVIS: Okay.

8 MR. ROCHE: And I do not intend during the
9 corporate dep to ask Dan Bump any more questions
10 about the discussions that ACE had with the College
11 of DuPage in 2013, 2014. I agree with you, I have
12 adequately probed his memory. I don't need to talk
13 about that and nor do I intend to discuss that.

14 MR. DAVIS: So, again, back to the list.

15 MR. ROCHE: Yes, let's go back to the list.
16 The terms of the --

17 MR. DAVIS: The representations that form the
18 basis for ACE's fraud claim against defendants.

19 MR. ROCHE: I want to discuss questioning about
20 that, limited though.

21 MR. DAVIS: Okay.

22 MR. ROCHE: Not --

23 MR. DAVIS: Even though he has already
24 testified to that? So you have additional



1 questions about the representations that form the
2 basis for ACE's fraud claim?

3 MR. ROCHE: Yes, but I would also note that --
4 because Dan Bump has not reviewed the complaint
5 since 2015, I don't know if Dan Bump is going to be
6 competent to serve as a corporate rep to testify as
7 to the basis of ACE's fraud claim which is in the
8 complaint that he hasn't read. So maybe Keith
9 Bump needs to be that individual.

10 MR. DAVIS: No. 14, ACE's reliance --

11 MR. ROCHE: Let's go back. I want to go back
12 to a couple things here. Let's go to 9, the terms
13 of the alleged contract between ACE and defendants.
14 I believe I have adequately explored that. I don't
15 believe I am going to testify much -- or ask
16 Mr. Bump, Dan Bump, that many questions because his
17 statements, particularly this morning, I think bind
18 the corporation anyway.

19 ACE's potential merger with Your Extra
20 Hands Surgical Services, I don't intend to discuss.

21 ACE's performance under the alleged
22 contract between ACE and defendants, I have an area
23 of questioning on that.

24 MR. DAVIS: You have --



1 MR. ROCHE: Oh, yeah.

2 MR. DAVIS: -- an area of questioning on their
3 performance under the alleged contract that you
4 haven't covered up until this point in time in the
5 last eight hours?

6 MR. ROCHE: Yes.

7 MR. DAVIS: Even though you have spent almost
8 eight hours talking about that?

9 MR. ROCHE: Yes.

10 MR. DAVIS: Really?

11 MR. ROCHE: I do.

12 The damages suffered by ACE as a result of
13 the conduct complained of in ACE's complaint, I
14 have questioning on that.

15 The representations that form the basis
16 for ACE's fraud claim, we have discussed. I don't
17 even know if Dan Bump is competent today on that
18 because he hasn't read the complaint.

19 ACE's reliance on the representations that
20 form the basis for ACE's fraud claim against the
21 defendants, I don't believe I have any questioning
22 on that.

23 ACE's understanding of the approval
24 process defendants had to obtain for the surgical



1 assistant program, I don't have any question on
2 that. I have adequately explored Dan Bump's
3 memory. I do intend to ask Keith Bump that
4 question -- questioning -- questions. Sorry.

5 The accreditations ACE has obtained
6 between 2006 to the present, I have adequately
7 asked explored that area of inquiry.

8 The history surrounding ACE's
9 accreditation with CAAHEP, that has been adequately
10 explored.

11 The negotiations between ACE and
12 defendants about entering into a partnership, I
13 believe Keith Bump based on Dan Bump's testimony
14 will be the one who needs to testify on behalf of
15 the corporation on that.

16 Discussions with Blackboard, I have
17 adequately explored Dan Bump's recollection of
18 that; so I don't intend to ask any questions on
19 that.

20 MR. DAVIS: So the areas that you -- the areas
21 that you have questions on are No. 11 --

22 MR. ROCHE: No. 1.

23 MR. DAVIS: No. 1, No. 11, No. 12 --

24 MR. ROCHE: No. 1, No. 5 --



1 MR. DAVIS: And briefly because you have asked
2 so many questions about that.

3 MR. ROCHE: -- No. 11, No. 12. I have
4 questions about ACE's trade secrets that I
5 personally believe that Dan Bump is the one who
6 ought to testify that I have not previously asked.

7 MR. DAVIS: That you have not asked, even
8 though in the last question that you asked, you
9 broke it down into six specific areas. You asked
10 questions about six specific trade secrets, sorry,
11 sorry, six specific trade secrets and you have more
12 questions about that?

13 MR. ROCHE: Yeah.

14 MR. DAVIS: Like, for instance --

15 MR. ROCHE: I haven't even -- Dan Bump hasn't
16 even reviewed, for example, the Self-Study, COD's
17 Self-Study.

18 MR. DAVIS: You have already used it as --

19 MR. ROCHE: I identified it as an exhibit, but
20 Dan Bump hasn't reviewed it in detail. And I'm not
21 going to -- I don't intend, Mike, to go through
22 page by page --

23 MR. DAVIS: So how much longer do you intend to
24 do this? How much longer?



1 MR. ROCHE: A couple hours.

2 MR. DAVIS: Two hours.

3 MR. ROCHE: I'm not going to agree to

4 two hours. I think I am entitled --

5 MR. DAVIS: You agreed to three yesterday.

6 MR. ROCHE: I think I am entitled under the
7 rule to seven.

8 MR. DAVIS: Well, you are not getting seven,
9 okay? So if it is not done in two hours, we are
10 leaving, and we will take it up with the judge
11 because I am quite certain once he gets a copy of
12 the transcripts and sees the amount of time that
13 you have shuffled between exhibits, that you have
14 delayed questions, that you have asked questions
15 that have been related before, I'm sure that that
16 will delete whatever extra time you are going for.

17 You have seen me take a deposition. What
18 you need to do is if you are going to do it within
19 the time you are allotted, you need to pick it up.

20 MR. ROCHE: Mike --

21 MR. DAVIS: So let's take a break at that point
22 in time --

23 MR. ROCHE: Let's keep the record open. I am
24 not required under the federal rules nor any



1 ethical rules to follow your lead in how you take
2 depositions.

3 MR. DAVIS: No. But you are required to do it
4 within a certain period of time which is why they
5 put a limit on it. They put a limit on it so that
6 somebody can't prolong the amount of deposition
7 that you take by having unnecessary compound
8 questions, by taking too much time to ask the
9 question, by asking a repeated question for
10 information that you already know, et cetera,
11 et cetera. That's why they put a limit on the
12 time.

13 MR. ROCHE: I noticed the corporate deposition
14 up for today. I am entitled to seven hours under
15 the corporate deposition.

16 MR. DAVIS: We already discussed it yesterday.

17 MR. ROCHE: I am entitled to seven hours under
18 the subpoena that I issued to Dan Bump.

19 MR. DAVIS: Yesterday was the corporate
20 deposition of Dan Bump. And we have agreed to
21 allow you a couple of extra hours, okay?

22 MR. ROCHE: That is simply categorically,
23 undeniably false.

24 MR. DAVIS: It is absolutely correct. He is



1 the sole shareholder and president. How could he
2 not be the 30(b)(6) rep?

3 MR. ROCHE: Then I will move for sanctions
4 because he clearly was not prepared to testify on
5 several of these topics that were identified in the
6 corporate -- the notice of corporate deposition.

7 MR. DAVIS: You have already agreed --

8 MR. ROCHE: So you are telling me -- you are
9 telling me, Mike, that you submit a witness who is
10 incompetent to testify to several of these topics
11 and now you are claiming that I am no longer -- I
12 am precluded from having a full seven hours with
13 this witness when you don't -- when ACE does not
14 comply with its obligations to produce a witness
15 who can testify as to the allegations in ACE's
16 complaint as opposed to a witness who says he
17 hasn't read the complaint in a year and a half or
18 almost two years?

19 MR. DAVIS: You are not precluded from asking
20 questions of the party that knows the answer to the
21 questions. But it's not inconceivable that a
22 30(b)(6) rep wouldn't be able to answer every
23 single question under the sun about the case, okay?
24 So a 30(b)(6) rep answers questions in his



1 corporate capacity which you have been asking,
2 okay?

3 If a corporate representative doesn't
4 know, then you ask the party -- the occurrence
5 witness that knows the answer. It's that simple.
6 So 30(b) (6) reps aren't required to know absolutely
7 everything, but you are allowed to ask the
8 applicable party that does know what the question
9 is.

10 MR. ROCHE: 30(b) (6) witnesses are required to
11 educate themselves on the topics identified in the
12 corporate dep notice. During yesterday's
13 deposition it became quite clear and evident that
14 Dan Bump was not prepared to testify as to several
15 of the topics identified in the corporate
16 representative notice.

17 MR. DAVIS: Where --

18 MR. ROCHE: I don't want to -- we are wasting
19 time. I think we made our objections. I think
20 they are quite clear for the record. Let's take a
21 break and start with 30(b) (6).

22 MR. DAVIS: We have already -- we are finishing
23 the 30(b) (6), okay? So whatever you have got left
24 on the list, you can ask it. That would be our



1 position. And let's take a break, and you can
2 start asking.

3 MR. ROCHE: Fine.

4 (Deposition concluded at
5 12:27 o'clock p.m.)

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1 IN THE UNITED STATES DISTRICT COURT

2 NORTHERN DISTRICT OF ILLINOIS

3 EASTERN DIVISION

4
5 AMERICAN CENTER FOR)
6 EXCELLENCE IN SURGICAL)
7 ASSISTING INC.,)
8 Plaintiff,)
9 vs.) No. 1:15-CV-07290
10 COMMUNITY COLLEGE)
11 DISTRICT 502, COLLEGE OF)
12 DUPAGE, DR. THOMAS)
13 CAMERON, DR. KAREN M.)
14 SOLT, and DR. KATHY)
15 CABAI,)
16 Defendants.)

17 this is to certify that I have read the

18 transcript of my deposition taken in the

19 above-entitled cause by Patricia L. Wangler,

20 Certified Shorthand Reporter, on April 5, 2017, and

21 that the foregoing transcript accurately states the

22 questions asked and the answers given by me as they

23 now appear.

24 _____
19 DANI EL BUMP

20 SUBSCRIBED AND SWEARN TO

21 Before me this _____ day

22 of _____ 2017.

23 _____
24 Notary Public



1 STATE OF ILLINOIS)

2) SS:

3 COUNTY OF COOK)

4 I, Patricia L. Wangler, an Officer of the
5 Court, do hereby certify that heretofore, to-wit,
6 on April 5, 2017, personally appeared before me, at
7 180 North Stetson Avenue, Chicago, Illinois, DANIEL
8 BUMP, in a cause now pending and undetermined in
9 the United States District Court Northern District
10 of Illinois, Eastern Division, wherein AMERICAN
11 CENTER FOR EXCELLENCE IN SURGICAL ASSISTING INC.,
12 is the Plaintiff, and COMMUNITY COLLEGE DISTRICT
13 502, COLLEGE OF DUPAGE, DR. THOMAS CAMERON, DR.
14 KAREN M. SOLT, and DR. KATHY CABAI, are the
15 Defendants.

16 I further certify that the said witness
17 was first duly sworn to testify the truth, the
18 whole truth and nothing but the truth in the cause
19 aforesaid; that the testimony then given by said
20 witness was reported stenographically by me in the
21 presence of the said witness, and afterwards
22 reduced to typewriting by Computer-Aided
23 Transcription, and the foregoing is a true and
24 correct transcript of the testimony so given by



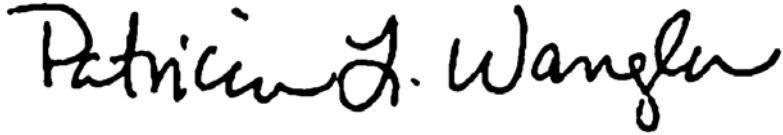
1 said witness as aforesaid.

2 I further certify that the signature to
3 the foregoing deposition was not waived by counsel
4 for the respective parties.

5 I further certify that the taking of this
6 deposition was pursuant to notice, and that there
7 were present at the deposition the attorneys
8 hereinbefore mentioned.

9 I further certify that I am not counsel
10 for nor in any way related to the parties to this
11 suit, nor am I in any way interested in the outcome
12 thereof.

13 IN TESTIMONY WHEREOF: I have hereunto set
14 my verified digital signature this
15 17th day of April, 2017.

16
17
18
19 
20

21 ILLINOIS CERTIFIED SHORTHAND REPORTER
22 LIC. NO. 084-002417
23
24



Dani el Bump 04/05/2017

McCorkle Litigation Services, Inc.
200 N. LaSalle Street, Suite 2900
Chicago, Illinois 60601-1014

April 17, 2017
Mr. Michael J. Davis
DLG Law Group
2777 Finley Road, Suite 12
Downers Grove, Illinois 60515

IN RE: American Center v. Community College
NUMBER: 1:15-CV-07290
DATE TAKEN: April 5, 2017
DEPONENT: Daniel Bump

Dear Mr. Davis,

Enclosed is the deposition transcript for the aforementioned deponent in the above-entitled cause. Also enclosed are additional signature pages, if applicable, and errata sheets.

Per your agreement to secure signature, please submit the transcript to the deponent for review and signature. All changes or corrections must be made on the errata sheets, not on the transcript itself. All errata sheets should be signed and all signature pages need to be signed and notarized.

After the deponent has completed the above, please return all signature pages and errata sheets to me at the above address, and I will handle distribution to the respective parties.

If you have any questions, please call me at the phone number below.

Sincerely,

Ci ndy Al i cea
Si gnature Department

Patricia L. Wangler
Court Reporter

cc: Mr. Roche.



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